

AMENDED IN SENATE JULY 1, 2009
AMENDED IN ASSEMBLY APRIL 27, 2009
AMENDED IN ASSEMBLY APRIL 2, 2009

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 569

Introduced by Assembly Member Emmerson

February 25, 2009

An act to amend Section 512 of the Labor Code, relating to employment.

LEGISLATIVE COUNSEL'S DIGEST

AB 569, as amended, Emmerson. Meal periods: exemptions.

Existing law prohibits, subject to certain exceptions, an employer from requiring an employee to work more than 5 hours per day without providing a meal period and, notwithstanding that provision, authorizes the Industrial Welfare Commission to adopt a working condition order permitting a meal period to commence after 6 hours of work if the order is consistent with the health and welfare of affected employees.

This bill would exempt from these provisions ~~construction~~ employees *in a construction occupation* and commercial drivers in the transportation industry who are covered by a valid collective bargaining agreement containing specified terms, including meal period provisions. It would specify that its provisions do not affect the requirements for meal periods for employees or employers in industries other than those described in the bill.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 512 of the Labor Code is amended to
2 read:

3 512. (a) An employer may not employ an employee for a work
4 period of more than five hours per day without providing the
5 employee with a meal period of not less than 30 minutes, except
6 that if the total work period per day of the employee is no more
7 than six hours, the meal period may be waived by mutual consent
8 of both the employer and employee. An employer may not employ
9 an employee for a work period of more than 10 hours per day
10 without providing the employee with a second meal period of not
11 less than 30 minutes, except that if the total hours worked is no
12 more than 12 hours, the second meal period may be waived by
13 mutual consent of the employer and the employee only if the first
14 meal period was not waived.

15 (b) Notwithstanding subdivision (a), the Industrial Welfare
16 Commission may adopt a working condition order permitting a
17 meal period to commence after six hours of work if the commission
18 determines that the order is consistent with the health and welfare
19 of the affected employees.

20 (c) Subdivision (a) does not apply to an employee in the
21 wholesale baking industry who is subject to an Industrial Welfare
22 Commission wage order and who is covered by a valid collective
23 bargaining agreement that provides for a 35-hour workweek
24 consisting of five 7-hour days, payment of one and one-half times
25 the regular rate of pay for time worked in excess of seven hours
26 per day, and a rest period of not less than 10 minutes every two
27 hours.

28 (d) If an employee in the motion picture industry or the
29 broadcasting industry, as those industries are defined in Industrial
30 Welfare Commission Wage Order Numbers 11 and 12, is covered
31 by a valid collective bargaining agreement that provides for meal
32 periods and includes a monetary remedy if the employee does not
33 receive a meal period required by the agreement, then the terms,
34 conditions, and remedies of the agreement pertaining to meal
35 periods apply in lieu of the applicable provisions pertaining to
36 meal periods of subdivision (a) of this section, Section 226.7, and
37 Industrial Welfare Commission Wage Order Numbers 11 and 12.

1 (e) Subdivisions (a) and (b) do not apply to an employee
2 employed in ~~the construction industry~~ *a construction occupation*
3 or to an employee employed as a commercial driver in the
4 transportation industry if both of the following conditions are
5 satisfied:

6 (1) The employee is covered by a valid collective bargaining
7 agreement.

8 (2) The valid collective bargaining agreement expressly provides
9 for the wages, hours of work, and working conditions of
10 employees, and expressly provides for meal periods for those
11 employees, final and binding arbitration of disputes concerning
12 application of its meal period provisions, premium wage rates for
13 all overtime hours worked, and a regular hourly rate of pay of not
14 less than 30 percent more than the state minimum wage rate.

15 (f) *The following definitions apply for the purposes of this*
16 *section:*

17 (1) *“Commercial driver” means an employee who operates a*
18 *vehicle described in subdivision (b) of Section 15210 of the Vehicle*
19 *Code.*

20 (2) *“Construction occupation” means all job classifications*
21 *associated with construction by Article 2 (commencing with Section*
22 *7025) of Chapter 9 of Division 3 of the Business and Professions*
23 *Code, including work involving alteration, demolition, building,*
24 *excavation, renovation, remodeling, maintenance, improvement,*
25 *and repair, and any other similar or related occupation or trade.*

26 SEC. 2. Notwithstanding any other provision of law,
27 subdivision (e) of Section 512 of the Labor Code does not affect
28 the nature or scope of the law related to meal periods, including
29 the timing of commencement of a meal period, for employees or
30 employers not specifically covered by subdivision (e) of Section
31 512 of the Labor Code.